

111TH CONGRESS  
1ST SESSION

# S. 828

To amend the Energy Policy Act of 2005 to provide loan guarantees for projects to construct renewable fuel pipelines, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 3 (legislative day, APRIL 2), 2009

Mr. HARKIN (for himself, Mr. THUNE, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Energy Policy Act of 2005 to provide loan guarantees for projects to construct renewable fuel pipelines, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Renewable Fuels Pipe-  
5 lines Act of 2009”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) creating the appropriate infrastructure to  
2           move renewable fuels is a necessary energy and  
3           transportation objective for the United States;

4           (2) as of the date of enactment of this Act,  
5           more than 70 percent of the gasoline supply of the  
6           United States is delivered to local terminals through  
7           pipelines;

8           (3) pipelines are the most cost-effective, effi-  
9           cient, and safe transportation mode in use in 2009  
10          to deliver large volumes of liquid fuels;

11          (4) as of the date of enactment of this Act, re-  
12          newable fuels are transported by truck, barge, and  
13          rail, and the volume requirements of the Energy  
14          Independence and Security Act of 2007 (42 U.S.C.  
15          17001 et seq.), and the amendments made by that  
16          Act, will require an expansion of the renewable fuels  
17          infrastructure;

18          (5) the transportation of renewable fuels  
19          through a pipeline will facilitate the meeting of the  
20          volume requirements of the Energy Independence  
21          and Security Act of 2007 (42 U.S.C. 17001 et seq.)  
22          and the amendments made by that Act; and

23          (6) the production and use of renewable fuels is  
24          supported by Federal policy and a corresponding  
25          Federal policy is necessary to support the construc-

1       tion of an appropriate infrastructure to transport  
2       those fuels.

3   **SEC. 3. LOAN GUARANTEES FOR PROJECTS TO CONSTRUCT**  
4       **RENEWABLE FUEL PIPELINES.**

5       (a) DEFINITIONS.—Section 1701 of the Energy Pol-  
6   icy Act of 2005 (42 U.S.C. 16511) is amended by adding  
7   at the end the following:

8               “(6) RENEWABLE FUEL.—The term ‘renewable  
9       fuel’ has the meaning given the term in section  
10      211(o)(1) of the Clean Air Act (42 U.S.C.  
11      7545(o)(1)), as in effect on January 1, 2009, except  
12      that the term includes ethanol and biodiesel.

13              “(7) RENEWABLE FUEL PIPELINE.—The term  
14      ‘renewable fuel pipeline’ means a common carrier  
15      pipeline for transporting renewable fuel in accord-  
16      ance with this title.”.

17      (b) SPECIFIC APPROPRIATION OR CONTRIBUTION.—  
18   Section 1702(b) of the Energy Policy Act of 2005 (42  
19   U.S.C. 16512(b)) is amended by striking “No” and insert-  
20   ing “Except with respect to a project described in section  
21   1703(f), no”.

22      (c) AMOUNT.—Section 1702(c) of the Energy Policy  
23   Act of 2005 (42 U.S.C. 16512(c)) is amended—

24              (1) by striking “(c) AMOUNT.—Unless” and in-  
25      serting the following:

1 “(c) AMOUNT.—

2 “(1) IN GENERAL.—Unless”; and

3 (2) by adding at the end the following:

4 “(2) RENEWABLE FUEL PIPELINES.—With re-  
5 spect to a project described in section 1703(f)—

6 “(A) a guarantee by the Secretary shall  
7 not exceed an amount equal to 90 percent of  
8 the project cost of the renewable fuel pipeline  
9 that is the subject of the guarantee, as esti-  
10 mated at the time at which the guarantee is  
11 issued; and

12 “(B) the Secretary may make more than 1  
13 guarantee for the project, to the extent that the  
14 sum of all guarantees for the project does not  
15 exceed an amount equal to 90 percent of the  
16 project cost of the renewable fuel pipeline that  
17 is the subject of the guarantees, as estimated  
18 any time after the original guarantee is  
19 issued.”.

20 (d) ELIGIBLE PROJECTS.—Section 1703 of the En-  
21 ergy Policy Act of 2005 (42 U.S.C. 16513) is amended  
22 by adding at the end the following:

23 “(f) RENEWABLE FUEL PIPELINES.—

24 “(1) IN GENERAL.—The Secretary may make  
25 guarantees under this title for projects to construct

1 renewable fuel pipelines without regard to any limi-  
2 tation imposed by this section other than a limita-  
3 tion imposed by this subsection.

4 “(2) GUARANTEE DETERMINATIONS.—In deter-  
5 mining whether to make a guarantee for a project  
6 described in paragraph (1), the Secretary shall con-  
7 sider the following:

8 “(A) The volume of renewable fuel to be  
9 moved by the renewable fuel pipeline.

10 “(B) The size of the markets to be served  
11 by the renewable fuel pipeline.

12 “(C) The existence of sufficient storage to  
13 facilitate access to the markets to be served by  
14 the renewable fuel pipeline.

15 “(D) The proximity of the renewable fuel  
16 pipeline to renewable fuel production facilities.

17 “(E) The investment in terminal infra-  
18 structure of the entity carrying out the pro-  
19 posed project to construct a renewable fuel  
20 pipeline.

21 “(F) The history and experience working  
22 with renewable fuel of the entity carrying out  
23 the proposed project to construct a renewable  
24 fuel pipeline.

1           “(G) The ability of the entity carrying out  
 2           the proposed project to construct a renewable  
 3           fuel pipeline to ensure and maintain the quality  
 4           of the renewable fuel through the terminal sys-  
 5           tem of the entity and through the dedicated  
 6           pipeline system.

7           “(H) The ability of the entity carrying out  
 8           the proposed project to construct a renewable  
 9           fuel pipeline to complete such proposed project  
 10          in a timely manner.

11          “(I) The ability of the entity carrying out  
 12          the proposed project to construct a renewable  
 13          fuel pipeline to secure property rights-of-way.

14          “(J) Other criteria the Secretary deter-  
 15          mines appropriate for consideration.

16          “(3) LOAN GUARANTEE FOR PRELIMINARY  
 17          STAGE.—

18                 “(A) IN GENERAL.—The Secretary—

19                         “(i) shall evaluate a project to assem-  
 20                         ble a renewable fuel pipeline under this  
 21                         title as a complete project; but

22                         “(ii) as a result of the size and nature  
 23                         of the project, the Secretary may make a  
 24                         guarantee under this title for an initial  
 25                         loan to assemble the renewable fuel pipe-

1 line at a preliminary stage in the loan ap-  
2 proval process for the complete project.

3 “(B) AMOUNT.—The amount of a loan  
4 that is guaranteed at the preliminary stage of  
5 a renewable fuel pipeline project under this  
6 paragraph—

7 “(i) shall not exceed 2 percent of the  
8 total amount of loan guarantees made for  
9 the complete project; and

10 “(ii) shall be incorporated into the  
11 total amount of loan guarantees made for  
12 the complete project.

13 “(C) REQUIRED INFORMATION.—To be eli-  
14 gible to obtain a loan guarantee at the prelimi-  
15 nary stage of a renewable fuel pipeline project  
16 under this paragraph, the applicant shall pro-  
17 vide to the Secretary—

18 “(i) a route description for the  
19 project, including a centerline map of the  
20 proposed pipeline route subject to field  
21 verification and right-of-way acquisition  
22 (with a margin of error of 10 miles);

23 “(ii) a construction cost estimate and  
24 schedule for completion of the project;

“(iii) an environmental review of the impact of the project on sensitive areas, including likely mitigation strategies and a plan for conducting the necessary environmental impact statements; and

“(iv) a business plan that includes—

“(I) a market assessment;

“(II) an economic analysis; and

“(III) an analysis of any required pipeline connections to biorefineries, terminal locations, and other terminal connections.

“(D) SUPPORTING INFORMATION.—In making a loan guarantee at the preliminary stage of a renewable fuel pipeline project under this paragraph, the Secretary shall consider whether an applicant provides to the Secretary—

“(i) a comprehensive project plan that includes a full work plan;

“(ii) a full engineering summary;

“(iii) a detailed assessment of the ability of the applicant to complete the project in a timely manner;

“(iv) a right of way acquisition plan;



1 “(v) appropriate environmental stud-  
 2 ies; and

3 “(vi) a plan for acquiring necessary  
 4 permits.

5 “(4) EMINENT DOMAIN.—

6 “(A) IN GENERAL.—Subject to subpara-  
 7 graph (B), the Secretary may provide to the  
 8 owner of a renewable fuel pipeline under this  
 9 title the same rights of eminent domain that  
 10 the Federal Energy Regulatory Commission is  
 11 authorized to provide to a natural gas company  
 12 under section 7(h) of the Natural Gas Act (15  
 13 U.S.C. 717f(h)).

14 “(B) CERTIFICATE OF PUBLIC CONVEN-  
 15 IENCE AND NECESSITY.—An owner of a renew-  
 16 able fuel pipeline under this title shall not be  
 17 required to hold a certificate of public conven-  
 18 ience and necessity, or any comparable certifi-  
 19 cate, to exercise the rights of eminent domain  
 20 under this title.

21 “(5) RENEWABLE FUEL PIPELINE RATEMAKING  
 22 METHODOLOGY.—Consistent with the ratemaking  
 23 methodology used for a natural gas company under  
 24 the Natural Gas Act (15 U.S.C. 717 et seq.), the  
 25 Federal Energy Regulatory Commission shall have

1 jurisdiction over the ratemaking methodology used  
2 for renewable fuel transported by pipeline.”.

3 (e) AUTHORIZATION OF APPROPRIATIONS.—Section  
4 1704 of the Energy Policy Act of 2005 (42 U.S.C. 16514)  
5 is amended by adding at the end the following:

6 “(c) AUTHORIZATION OF APPROPRIATIONS.—There  
7 is authorized to be appropriated such sums as are nec-  
8 essary to provide up to \$5,000,000,000 in loan guarantees  
9 under this title for projects described in section 1703(f).”.

10 (f) TEMPORARY PROGRAM FOR RAPID DEPLOYMENT  
11 OF RENEWABLE ENERGY AND ELECTRIC POWER TRANS-  
12 MISSION PROJECTS.—Section 1705(a) of the Energy Pol-  
13 icy Act of 2005 (42 U.S.C. 16516(a)) is amended by add-  
14 ing at the end the following:

15 “(4) Renewable fuel pipelines.”.

16 **SEC. 4. FINAL RULE.**

17 Not later than 90 days after the date of the enact-  
18 ment of this Act, the Secretary of Energy shall—

19 (1) publish in the Federal Register a final rule  
20 for carrying out a guarantee program for the con-  
21 struction of renewable fuel pipelines under title XVII  
22 of the Energy Policy Act of 2005 (22 U.S.C. 16511  
23 et seq.) in accordance with the amendments made by  
24 this Act; or

1           (2) modify rules and regulations applicable as  
2       of the date of enactment of this Act to the guarantee  
3       program under that title in accordance with the  
4       amendments made by this Act.

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